

HEALTH CARE FRAUD AND ABUSE

Mr. COHEN. I want to take a few moments to talk about something that is of great importance to me. As is so often the case in Washington, misinformation is flying about the effects of legislation being considered in Congress. It is customary in this country and in this Congress, to have, just as we are negotiating the last-minute details to legislation, some interest group come forward, place a provocative ad in the newspaper, and try to destroy that legislation.

I am referring to the fraud and abuse provisions in the Kennedy-Kassebaum health care legislation that is now in the final stages of a conference. Recently, the American Medical Association placed a full-page ad in the Wall Street Journal. The ads are slick and very clever—it shows a doctor, with a stethoscope hanging down, in the “docks.” It says, “We (the AMA) are opposed to fraud and abuse. We know it is a serious problem, but if doctors willfully and knowingly violate our Nation’s laws, they should be punished.”

Mr. President, this is precisely what the legislation does. Then the ad goes on to say, “But honest mistakes should not make physicians or any other citizens candidates for incarceration.” We agree.

This legislation has been worked on for the past 3 years. As a matter of fact, this particular ad is not only misleading, it is false. It is absolutely false advertising that the AMA has engaged in, along with other physician groups who have written articles.

To distort the intent and scope of the provisions in this fashion minimizes the very real threat that fraud poses to our health care system and, indeed, to the solvency of Medicare. Medicare trustees have said the trust fund is going broke—not in 6 years—but in 5 years. One of the reasons it is going broke is because so much fraud and abuse is being perpetrated on the American people. As we are asking Medicare beneficiaries and honest providers to share the burden of changes to arrest the growth of Medicare, it is our duty to do all we can to get the waste, fraud, and abuse out of the program.

According to the General Accounting Office, we are now losing as much as \$100 billion from fraud and abuse every year. The losses to Federal health care programs, such as Medicare, Medicaid, and CHAMPUS, is about \$40 billion or 40 percent of the total.

Mr. President, it is a grand scale of theft that is taking place. We have heard testimony that organized crime has moved into health care fraud. We have heard testimony that drug dealers have moved into health care fraud because there is more money and it is easier for them to perpetrate this crime rather than trying to sell drugs with the FBI breathing down their neck. As Willie Sutton said, “that’s where the money is.”

Let me give you a couple of examples that have come to my attention. I have

had hearing after hearing on this subject matter. Seven months ago, a physician testified before the Senate about his involvement in a clinic scam in Los Angeles. The physician participated in a scheme that involved phony prescriptions, paid patients, and resulted in losses over \$800,000 to the Medicaid Program.

In another case, the owner of a home health care company built a beautiful \$2.5 million mansion with money he made from phony Medicare billings.

A New York physician defrauded the Medicaid Program of more than \$1.5 million by fraudulently charging for 25,000 drug treatments never given to recipients.

We have even heard of a case where a psychiatrist billed for 50,000 phantom therapy sessions never given to patients.

That is just a small sample of what we are trying to deal with today. And that is why we passed this important legislation by overwhelming numbers in this body.

The health care fraud provisions now being considered by the Senate and House conference committee do address this problem in a reasonable, measured manner that does not infringe on personal liberties nor penalize innocent mistakes. The bill closes loopholes in current law and provides criminal penalties for a defined set of serious and egregious violations such as embezzlement. The fraud and abuse provisions substantially mirror existing fraud statutes and are designed to give enforcement more precise tools to protect consumers against fraud and abuse. Contrary to claims that the bill will unleash an army of intrusive investigators trying to entrap innocent doctors, the proposal simply provides adequate resources for prosecutors and investigators, long strapped by budget cuts and under staffing to go after serious patterns and cases of abuse.

The AMA’s claim that “honest mistakes” of doctors or any other citizens makes them “candidates for incarceration” is simply false. Far from going after honest mistakes, the criminal sanctions will be used to prosecute egregious, intentional acts of fraud against health plans.

Mr. President, the final thrust of the attack ads that are being leveled against this legislation is that this is Clinton’s health care plan revisited. That, too, is absolutely false. This legislation was developed in response to the recommendations put forth by a task force put together by President Bush, which was headed by a Justice Department that was dominated at the top level by President Bush appointees. It has been endorsed by Bob Dole, our former majority leader, and virtually everybody in our leadership for many years. These provisions have passed twice before during this Republican-controlled Congress and have been the subject of numerous hearings in both the Senate and House. The notion that somehow this is Clinton II slipping

through the cracks at the last moment is completely false.

We have to deal with health care fraud in a direct and responsible fashion. The legislation we passed by an overwhelming majority in this body, unanimously, as I recall, deserves not to be undercut by false and misleading advertising. I hope my colleagues reject these kinds of last-minute scare tactics which the AMA and others are engaged in. The only ones to gain from failing to pass this antifraud package are those who are intentionally ripping off the system. All the rest of us are the big losers—the vast majority of honest health care providers, taxpayers, and families who are footing the bill for the fraudulent providers in the form of higher taxes and health care costs.

Mrs. FEINSTEIN addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

(The remarks of Mrs. FEINSTEIN pertaining to the introduction of S. 1865 are located in today’s RECORD under “Statements on Introduced Bills and Joint Resolutions.”)

Mrs. FEINSTEIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONGRATULATING THE NEW MAJORITY LEADER

Mrs. FEINSTEIN. Mr. President, I see that the new majority leader has entered the Senate. I personally want to extend to him my very sincere congratulations on his election. As he knows, we have had occasion to work together on one bill, and it was ill-fated. It was a postponement of the base closure process. As I recall, we got 16 votes. However, with your election, I look forward to occasions where we will have a majority of votes. I congratulate the Senator. I know he will do just fine.

Mr. LOTT. Mr. President, I want to thank the distinguished Senator from California for her comments. I look forward to working with her. I remember that occasion very well. I think one of the reasons we did not get more than 16 votes is the Members could not figure out what the two of us were doing working together. I think they have since realized that is going to happen more than just once or twice. I look forward to working with the Senator for the good of our respective States and our country.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 1997—CONFERENCE REPORT

Mr. BOND. Mr. President, I have been authorized to allocate myself such time as may be required from the time allocated to the majority on the conference report.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. Mr. President, will the distinguished Senator from Missouri yield for a bit of information?

Mr. BOND. I am delighted to yield.

Mr. LOTT. Mr. President, first I want to thank the Senator from Missouri for the good work he has been doing in this area. I have seen the questions he has asked about the outyears in the budget as proposed by the administration, and how in the world they plan to meet those numbers. In fact, you have had administration officials say, "Well, we do not really plan to."

So I hope you will continue to pursue this because this is a very important question of whether or not we are getting accurate information, what this means for the future in terms of trying to get a balanced budget.

So I hope you will continue to pursue aggressively those questions because we need to know the answers.

Mr. LOTT. Mr. President, I would like to take a moment to advise Members that it appears that the House will not be able to complete action on the budget resolution conference report by the 3:30 hour, and possibly not until much later this afternoon.

Therefore, there will not be a vote on the budget resolution conference report today. We will consult with the Budget Committee leaders and the Democratic leader and announce this afternoon exactly what time the vote will occur on Thursday.

I thank you for yielding.

Mr. BOND. I thank the majority leader and join my colleagues in offering congratulations and tell him that we are delighted to have his leadership. We look forward to working with him, and I also appreciate your comments about this measure.

Mr. President, I am here today to commend our chairman of the Budget Committee, and the staff who worked together to put an honest budget together which will get our budget to balance in the year 2002. It is an honest budget, and, therefore, it makes some tough choices. Some people do not like it because it makes tough choices. It makes those tough choices honestly.

I think it is a fair subject to debate. We have had those debates in this body. They had it on the other side, and we are now going to act on a conference report.

I am a strong supporter of this budget even though it does have to make some tough restrictions on our spending. Because I believe we have a solemn

commitment to our constituents, to future generations of Americans to bring our budget in balance. I have been very disturbed in the last several weeks to hear our budget attacked in comparison to a budget submitted by the President which is far more generous in election years and then purports to get to a balance by the year 2002 by making some draconian cuts in many discretionary spending programs.

In addition to serving on the Budget Committee I have the privilege of serving as chairman of the appropriations subcommittee that deals with the Veterans' Administration, HUD, and independent agencies. As my colleagues know, we have a number of very large and very important entities that are funded in that budget. So I have been holding hearings in the appropriations subcommittee over the last several weeks knowing how important budgets are for planning, and for implementing our fiscal decisions down the road. I have been asking the administration officials who have come before me how they plan to handle the large cuts proposed by the President's budget for the years 1998 to 2002.

We do not have to emphasize the fact that 1998 comes after the current election cycle. Apparently, some people may think that the heat will go off and they will not have to be quite so accountable.

Mr. President, I have been asking questions in the appropriations hearing as one who has dealt with budgets and agencies for many years. How can you cut 23 percent out of the Veterans' Administration medical care without some plan in place to close hospitals; to consolidate or switch to outpatient care? If you intend to continue the care that we owe to our veterans and you believe, as the administration purports to recognize in its budget—this document published at great expense at the cost of many, many trees which shows that there will be almost \$13 billion cut out of the Veterans' Administration in the next 6 years—how can this be done?

I was so concerned about it that I asked Secretary Brown how they planned to live with the 23-percent reduction. Imagine my surprise when the Secretary told me that he had no plan; that in fact he had no intent of creating a plan because he had been assured that the cuts were not going to happen.

Mr. President, this book is what we are supposed to be operating from. This book is what we are supposed to be comparing as the administration's budget plan versus the plan that will be before us for a vote we hope later this week.

The numbers in the President's budget show that VA medical care drops from an annual appropriations of \$17 billion to \$13 billion over the next 4 years. But the VA Secretary tells me that those are not real, that the President's budget is not what he really proposes to do, that he would be shocked if it were actually to happen.

So why are the numbers in the budget, in this booklet, if they are not the

President's plan? I did not have an opportunity to listen. But I have seen the transcript of the President's comments in his Memorial Day radio show which seemed to be geared along the same lines as was stated by the Secretary of Veterans Affairs.

He did not follow the line and warn the veterans on Memorial Day that he would be proposing cuts that would shut down one-quarter of the VA medical care system, hospitals, clinics, and nursing homes at a time when the veterans population is rapidly aging and in need of services.

The President said in his Memorial Day message:

Even as we balance our budget, my administration is working to keep our solemn commitment to America's veterans by improving the health care they receive.

So a fair question, I think, would be, Whose budget is that he is talking about? Which budget is he talking about? Is there another budget that perhaps has not been printed up that we have not seen?

I thought perhaps it was just the Veterans Administration which was suffering from these mixed signals and maybe they were confused or maybe they thought the best way to avoid the potential political consequences of calling VA medical care unnecessary or a low priority was to issue confusing statements to the veterans by saying, "Don't worry about it, it won't really happen."

So the next agency that came before our committee for a hearing was that of the National Aeronautics and Space Administration. I asked the NASA Administrator Dan Goldin how he was going to plan for the over \$3 billion cuts in the 6-year plan for NASA, because they have already taken very serious cuts. I commended Administrator Goldin for having done a very responsible job in downsizing that agency. It seems to me those cuts were unduly harsh and would, perhaps, imperil the mission of that vital agency.

Much to my amazement, the NASA Administrator told me that OMB had told him not to worry about the out-year cuts either.

Wait a minute, what is going on? Let me stop just for a moment and explain why this matters.

The cuts I was asking about are those which the President needs and which he sets forth in his budget to be able to claim to the public he has presented a balanced budget proposal. We need to have these budget plans, not only for what we expect to happen in the future, but how we plan to appropriate money for this year. If, for example, there is a way to eliminate \$12.9 billion out of the VA Administration budget and not harm veterans medical care, then maybe we ought to be looking at that plan right now so we can make sure that we meet all our commitments for housing for low-income people in this country, because we are